

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PATRICK CHARLES McKENNA,

Petitioner,

vs.

RENEE BAKER, *et al.*,

Respondents.

2:11-cv-0191-JCM-PAL

ORDER

In this capital habeas corpus action, on June 8, 2012, the petitioner, Patrick Charles McKenna, filed, under seal, a motion for substitution of counsel (ECF No. 38). Subsequently, the court ordered McKenna to file a supplemental declaration of counsel, under seal, providing a more detailed explanation of the need for the substitution of counsel (ECF No. 40).

On July 3, 2012, McKenna's counsel filed supplemental briefing in support of the motion for substitution of counsel, under seal, as ordered (ECF No. 41).

The court has carefully considered the material filed under seal in this case on July 3, 2012 (ECF No. 41), and determines that, in the interests of justice, substitution of counsel is warranted. *See Martel v. Clair*, 132 S.Ct. 1276, 1284 (2012) (holding that an "interests of justice" standard is to be applied to motions for substitution of counsel in capital habeas cases). The motion for substitution of counsel will be granted, the federal public defender for the District of Nevada will be

1 discharged from its representation of the petitioner, and the federal public defender for the District of
2 Arizona will be appointed to represent the petitioner.

3 The federal public defender for the District of Arizona will be directed to file a notice of
4 appearance of counsel in this action. As the case is currently stayed, pending proceedings in state
5 court, there will likely be no significant further activity in the case after the notice of appearance of
6 counsel is filed, and before the stay is lifted.

7 **IT IS THEREFORE ORDERED** that the motion for substitution of counsel (ECF No. 38)
8 is **GRANTED**.

9 **IT IS FURTHER ORDERED** that the federal public defender for the District of Nevada is
10 discharged from the representation of the petitioner in this case.

11 **IT IS FURTHER ORDERED** that the federal public defender for the District of Arizona is
12 appointed to represent the petitioner in this case.

13 **IT IS FURTHER ORDERED** that the federal public defender for the District of Arizona
14 shall, within **30 days** after the date this order, file a notice of appearance of counsel for petitioner,
15 indicating their acceptance of this appointment, or other document indicating that they cannot accept
16 the appointment.

17 **IT IS FURTHER ORDERED** that the requirements of Local Rule IA 10-2 ("Admission to
18 Practice in a Particular Case") shall be waived in this case.

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1 **IT IS FURTHER ORDERED** that the clerk of the court shall **SERVE** a copy of this
2 order on each of the following:

3
4 Patrick Charles McKenna
#14968
5 Ely State Prison
P.O. Box 1989
6 Ely, NV 89301

7
8 Federal Public Defender
District of Arizona
850 W. Adams Street
9 Suite 201
Phoenix, AZ 85007-2730

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11 Dated this 12th day of July, 2012.

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14 UNITED STATES DISTRICT JUDGE